

### Remarks

Claims 1-10 are in the application, of which claim 1 is in independent form. The amendments to certain claims clarify their language or provide proper antecedent basis.

Claims 1-10 stand rejected for obviousness-type double patenting over claims 1-8 of U.S. Patent No. 6,453,214 ('214 patent), in view of claims 1-4 of U.S. Patent No. 6,366,830 ('830 patent) and claims 1-13 of U.S. Patent No. 6,360,144 ('144 patent). The Examiner states that omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. The Examiner further states that omission of a reference element or step, the function of which is not needed, would have been obvious to one of ordinary skill in the art. Applicants traverse this obviousness-type double patenting rejection because it is applicable to none of the three U.S. patents cited.

The '214 patent issued September 17, 2002 on a § 371 application filed August 2, 2001. The subject matter of the '214 patent was, however, published on June 8, 2000 in International Publication No. WO00/33359 (Pub. No. WO00/33359), on which the § 371 application was based. The June 8, 2000 publication date antedates by more than one year the July 23, 2003 filing date of the present application. (Applicants note that the '830 and '144 patents issued April 2 and March 19, 2002, respectively, each of which antedates by more than one year the July 23, 2003 filing date of the present application.)

A U.S. patent can provide primary underlying support of an obviousness-type double patenting rejection when the U.S. patent cannot by statute constitute evidence of prior art to the claim at issue. Because it was published more than one year before the filing date of the present application, the subject matter of the '214 patent as presented in Pub. No. WO00/33359 could constitute evidence of prior art under 35 U.S.C. §§ 102(b) and 103(a). Applicants submit, however, that Pub. No. WO00/33359 and the '813 and '144 patents do not constitute evidence of § 102(b) or § 103(a) prior art because none of them teaches or suggests generating correct robot arm position information by processing new and old pattern information as recited in independent claim 1. Because of the similarity of the subject matter of Pub. No. WO00/33359 and the '214 patent, applicants contend that the obviousness-type double patenting rejection is inappropriate and request that it be withdrawn. Moreover, applicants contend that an obviousness rejection based on the proposed combination of references also for this reason would not have rendered obvious claim 1 and its dependents.

Applicants believe their application is in condition for allowance and respectfully request the same.

Respectfully submitted,

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